

REMARKS

The rejection based on 35 U.S.C. 112 is traversed. It is precisely because road-legal dimensions can and do change from jurisdiction to jurisdiction and from time to time that the terms used are placed in the claims. Applicant cannot claim "eight feet," or "fourteen feet" in precise terms because the exact dimensions change. Most countries use metric systems, not feet. However, all countries and all states of the United States have regulations as to what is road-legal. It is the intent of applicant to comply with those regulations in the use of the invention.

The second paragraph of section 112 require applicant to "particularly point[] out and distinctly claim[] the subject matter which the applicant regards as his invention." Here, applicant regards as his invention the width and height limitations that are within the regulations of all jurisdictions. If a jurisdiction has a width limit of eight feet, the apparatus will be less than eight feet wide. If the jurisdiction has a width limit of two meters, the apparatus sold in that jurisdiction will be less than two meters. There is nothing indefinite about these terms. One skilled in the art will know how to make and use the apparatus in the environment for which it is made.

The first paragraph of section 112 requires a description addressed to one "skilled in the art." The claim terms objected to all come from the specification, which will be understood by one skilled in the art to enable that person to make and use the invention. Precise dimensions cannot be given because there is no common agreement on these dimensions.

The controlling authority on this point is *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986). There, the Chief Judge of the Federal Circuit, speaking for the court, said that it was error for the district court to require that the claim “describe” the invention, “which is the role of the disclosure portion of the specification, not the role of the claims.” The dimensions of the chair claimed “depend upon the automobile the chair is designed to suit,” just as the dimensions here depend on the regulations for width and height. The claim limitation “wherein said front leg portion is so dimensioned as to be insertable through the space between the door frame of an automobile and one of the seats thereof” was held not to be indefinite under Section 112, paragraph 2.

In view of this decision, it is respectfully requested that the rejection on the second paragraph of Section 112 be withdrawn.

The rejection based on anticipation by Moore is traversed. Moore does not address an implement capable of being transported on highways, as required by claim 1. Moore has “means for enabling the wings of the tool bar to flex upwardly and downwardly as the tool bar is being pulled through a field” (col. 1, lines 7-10). No concept of a central section with a width less than that allowed for transport on public roadways, as recited in claim 1, is shown in Moore. The whole point of the invention, namely being road legal, is utterly lacking in Moore.

The rejection based on anticipation by Meek is traversed. Meek relates to a device that keeps boxes level while the frame is folded up “so that the contents of the individual seed and fertilizer boxes will not be spilled” (col. 1. Lines 15-18).

The claimed implement, in contrast, is “for work on soil or plants,” and there is no need to keep the arms level with the ground. Figure 4 of the present application shows that the wings are raised in an arc where the work devices are not level with the ground. Meek addresses an entirely different problem from applicant.

Although Meek broadly refers to “road width requirements” and avoiding “interference with power lines” (col. 1, lines 47-55) it clearly is not intended to be “transported on highways,” as claim 1 recites. Figure 3 of Meek clearly shows that the center section 12 is not road legal. Transportation of the Meek apparatus on a highway would require the “special precautions for wide loads” that the present invention seeks to avoid, as recited in claim 1. The operation of the Meek machine is intended to be in a field, not on a highway. Column 5, lines 50-col. 7, line 30 of Meek shows that the operation and transport is in a field environment for planting, not for transport on highways. There is no mention of highway transport anywhere in Meek.

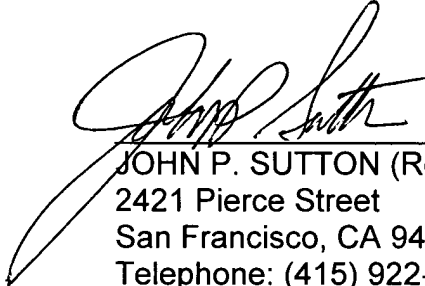
The rejection on Meek under Section 103(a) is also traversed. As noted above, Meek is for an entirely different purpose, and fails to meet any of the limitations for highway transport. Meek seeks to avoid cutting power lines, which is a far different obstacle than an overpass that is fourteen feet high. Where is the teaching that Meek could be modified to have a maximum height of fourteen feet? There must be some suggestion or motivation in the art to modify the height or width limits. Meek wants his device to be capable of travel on the entirety of a farm road, not on one lane of a highway. Meek’s device is designed

to fit under power lines, not overpasses. There no teaching that modification would be obvious. Meek has no concern about highway travel at all.

It is submitted that with the amendments to correct typographical errors, the claims are in a position for allowance. Favorable action is solicited.

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